IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 20337 of 2004

Between:

I.Ravi Kumar, s/o Singaraiah,
r/o Yerrabalem Post & Village, Cumbum Mandal,
Prakasam District.

..... PETITIONER

AND

1 Union of India rep., by its Secretary to Government,
Ministry of Defence, South Block, New Delhi.
2 The Commandant, National Defense Academy
PO NDA Khadakwasla, Pune 411 023.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents dismissing of the petitioner services as Lecturer from the 2nd respondent's Defense Academy as arbitrary, illegal, improper unconstitutional and violative of principles of natural justice and consequently direct the respondents herein to reinstate the petitioner with effect from the date of dismissal of petitioner services with all consequential benefits.

Counsel for the Petitioner: Sri I.Ravi Kumar, PARTY-IN-PERSON

Counsel for the Respondents: MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION No. 20337 of 2004

ORDER:

Heard Sri I.Ravi Kumar, party who has appeared in person, and Sri A.Rajasekhara Reddy, learned standing counsel appearing on behalf of the respondents herein.

The petitioner herein, who has been working with the second respondent as Lecturer, filed this Writ Petition, *inter alia*, seeking to assail the orders of dismissal passed on 19.06.2000 and also consequential dismissal of his appeal by the appellate authority as per the proceedings dated 17.07.2004.

The case of the petitioner, in brief, is that after issuance of show-cause notice on 24.05.2000, he filed explanation on 31.05.2000 and ultimately, removal order was passed on 19.06.2000 against which he filed a comprehensive appeal before the competent authority on 14.06.2004, however, the same was rejected by order dated 17.07.2004, which reads as follows:

> "Refer to your letter dated 14 June 2004 and telquerries.
>
> The contents of the above quoted letter is being examined hence no comments at this stage as the matter under reference is subjudice."

Learned counsel for the petitioner submits that the aforesaid order is without consideration of the pleas put forth by the petitioner, and there is no other case pending in any court of law, and the respondents are not able to show as how the matter is still subjudice.

After hearing the counsel on either side and on perusal of the material, it is seen that the aforesaid order as passed in a regular appeal as provided for under the Rules concerned, as against the final orders of removal from service, is lacunae and without giving any valid reason. The reason given therein that the matter is subjudice, also appears to be not correct. Neither the petitioner was heard nor there is any consideration of the matter on merits, and the rejection of appeal is not supported by any valid reasons. In view of the same and especially in regard to the pleas as raised in the appeal grounds or the representation, it necessarily calls for the appellate authority to go into the merits of the appeal, and dispose it of on merits in accordance with law after giving notice and opportunity. In view of the same, the matter requires to be reconsidered afresh on merits.

The Writ Petition is, accordingly, allowed, setting aside the impugned orders. The matter is remitted back to the second respondent for fresh disposal on merits in accordance with law after giving notice and opportunity to both the sides. The entire exercise shall be completed within a period of two months from the date of receipt of copy of this order. No costs.

(B.Prakash Rao, J.)

11.02.2005

DRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice,

On this Friday the Eleventh day of February two thousand and five.

…Registrar

Copy to:

1 Union of India rep., by its Secretary to Government,
Ministry of Defence, South Block, New Delhi.
2 The Commandant, National Defense Academy
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3 Two CD copies.